

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014030356

ORDER DENYING REQUEST FOR
CHANGE OF MEDIATOR

On April 23, 2014, the parties jointly asked that April 30, 2014 be vacated as a hearing date in this matter and that it be set as a mediation date. This request was granted on April 24, 2014. On Saturday, April 26, 2014, Betsy Brazy, attorney for Student, sent a request asking that one of two specific mediators be assigned to the mediation. Student attached an email from the attorney for the District which stated, in part, "if you want to request a different mediator, please do so."

Ms. Brazy cites to the regulations for the Administrative Procedure Act as allowing the parties to agree to a mediator and notify the Office of Administrative Hearings (OAH) of their choice and cites 1 CCR section 1216, authorized under Government Code sections 11420.10-11420.20, as authority. Even a cursory reading of 1 CCR section 1216 should have alerted Ms. Brazy to the fact that this regulation does not apply to special education mediations, as the procedures outlined are not the procedures applied to any special education case to which Ms. Brazy has been the attorney of record. Further, 5 CCR section 3086(a) states that Government Code section 11420.10 does not apply to special education due process hearings because Education Code sections 56500-56507 provide for mediation.

While OAH may entertain motions to change mediators in specific special education matters, this matter was scheduled for mediation on April 30, 2014, *at the parties request*, with less than five business days' notice. OAH retains the right to assign mediators based upon operational needs. In this case, the parties were assigned an available mediator and neither of the two mediators requested by Student are available. The request for a specific mediator is denied.

IT IS SO ORDERED.

DATE: April 28, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings